

TRULINCS 18002047 - WALTERMEYER, BROCC T - Unit: COL-A-A

FROM: 18002047
TO:
SUBJECT: R 20
DATE: 09/04/2022 11:28:48 AM

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Brocc T. Waltermeyer,

Plaintiff,

v.

Case No.: 19-cv-233-LM

Warden, FCI Berlin, et al.,

Defendants.

_____/

MOTION REQUESTING PERMISSIVE JOINDER
AND DROPPING OF OF PARTIES

Pursuant to Rules 20 and 21 of the Federal Rules of Civil Procedure, Brocc T. Waltermeyer, proceeding pro se, respectfully requests the permissive joinder and dropping of parties in the above-styled case. For the reasons stated below, Waltermeyer believes the actions to be appropriate at this stage in the proceedings.

I. Joinder of Parties

"A plaintiff may join multiple defendants in a single action if he or she asserts against each of them at least one claim to relief that arises out of the same ... series of transactions or occurrences, and presents questions of law or fact common to all." Jaame Amun Re El v. Warden, FCI Berlin, 2020 U.S. Dist. LEXIS 103435 *13 (D.N.H. 2020)(Johnstone, M.J.) (citing Fed. R. Civ. P. 20(a)(2)(A) and (B); see also Collins v. Does 1-38, 941 F. Supp. 2d 153, 162 (D. Mass, 2013)("Rule 20 requires only that any question of law or fact [be] common to all defendants")(internal quotations omitted).

During the course of the instant civil action, the Bureau of Prisons transferred Waltermeyer from FCI Berlin (New Hampshire) to FCC Coleman Low (Florida), ostensibly so he could be at "a facility capable of treating his medical conditions." July 26, 2019 Notice of Transfer at 1. ⁽¹⁾ However, Waltermeyer has had problems with his knees since 2011. See Second Declaration of Brocc T. Waltermeyer (hereinafter "2d Decl.") at para. 4. A condition Defendants have already admitted. See Kistler Declaration at 2 ("Waltermeyer has degenerative joint disease, a meniscal tear ... [and] tendinosis

TRULINCS 18002047 - WALTERMEYER, BROCC T - Unit: COL-A-A

... in both knees"). Instead, the BOP "treated" Waltermeyer by shipping him thousands of miles across the country in hopes that the suit would be dismissed by this court—and to send a message—stop asking for help, or we'll put you back on the bus. See 2d Decl. at para. 20 ("I'm afraid that if I continue with this litigation, I'll end up on the bus again. Maybe this time, I'll end up in California.").

Waltermeyer requests this court join FCC Coleman Warden FNU Steals and FCC Coleman Low Director of Health Services C. Donato as named Defendants in this litigation. As Warden, Steals is responsible for the safety and care of each inmate. Accord Bureau of Prisons Program Statement 7371.04 (Pretrial Inmates)("The Warden will establish procedures ... for [] new arrestees who need medical care beyond that available at the institution."). And as Donato is in charge of Health Services at FCC Coleman Low, she is directly responsible for Waltermeyer's care. See Attachment "1" (FCC Coleman Low Inmate Handbook).

As the roles of Steals and Donato are the same as of Hazelwood and Kistler, they should be joined as named Defendants to the instant action. See Fed. R. Civ. P. 20(a)(2); accord Kistler Declaration at 1. Waltermeyer's claims will not change. See generally Objections to Report and Recommendation. And the questions Waltermeyer presents remain relevant for the new parties. See id. Therefore, Waltermeyer respectfully requests joinder of FCC Coleman Warden FNU Steals and FCC Coleman Health Services Director C. Donato.

II. Dropping Parties

Now that Waltermeyer is in Florida, he faces dismissal of the litigation, as the original named Defendants (Hazelwood and Kistler) are no longer directly responsible for his care. Federal Rules of Civil Procedure 21 permit this court to drop parties "[o]n a motion," as well as "at any time" in the course of the proceedings. Waltermeyer's "series of transactions or occurrences" have not changed. Nor does his continued litigation in Florida present this court with any new questions of law or fact. See Fed. R. Civ. P. 20. And should this court join Steals and Donato to the instant action, Waltermeyer will not be harmed by dropping Hazelwood and Kistler as named Defendants. See Gray v. Perkins, 2020 U.S. Dist. LEXIS 26128 *10 (D.N.H. 2020)(Johnstone,M.J.)("Rule 21 permits the court to dismiss parties from an action if the dismissal[] do[es] not cause gratuitous harm to the parties.")(internal quotations omitted).

III. Retainment of Does 1-30

Relatedly, Waltermeyer requests this court retain Does 1-30. In this action, Does 1-30 represent the Institution

TRULINCS 18002047 - WALTERMEYER, BROCK T - Unit: COL-A-A

Utilization Review Committee (hereinafter "URC"). The purpose of the URC at each BOP facility is to, inter alia, "refer [] inmate[s] for further evaluation" to staff physicians or specialty consultants, "recommend[] parameters as to the length and time of [] procedure," and to "deny [] request[s] for procedure[s]." Bureau of Prisons Program Statement 6031.04, para. 7(a)(Patient Care); see also Chaney v. United States, 2015 U.S. Dist. LEXIS 188420 *32-33 (N.D. Ga. 2015)("[e]very institution [has] an established [URC], chaired by the Clinical Director.").

Waltermeyer understands that the URC is further comprised of, but not limited to: "Clinical Director ... Health Service Administrator ... Medical Trip Coordinator ... and [a] chaplain or social worker." Chaney, 2015 U.S. Dist. LEXIS 188420 at *33. As an inmate, Waltermeyer does not have access to the full roster of this non-exhaustive list of members who comprise the URC. And since Waltermeyer has been transferred, the URC is entirely new. As such, the only way to properly identify the proper Defendants who help to make the important decisions relevant to Waltermeyer's well being is to retain the Does. Alternately, Counsel for Defendants could name the appropriate members of the FCC Coleman Low URC, so that this court may permissively join the appropriate parties in this action.

IV. Conclusion


It is axiomatic that "[the District] Court takes the mandate of [Fed. R. Civ. P.] Rule 1 seriously, and encourages efforts by litigants to reduce litigation through settlement." Combat Zone, Inc. v. Doe, 2013 U.S. Dist. LEXIS 35429 *13-14 (D. Mass. 2013). It is through this lens that Waltermeyer respectfully requests this court join FCC Coleman Low Warden FNU Steals and FCC Coleman Low Health Services Director C. Donato as named Defendants, drop currently-named Defendants Hazlewood and Kistler, and retain the original Does No.1-30, in order to conserve judicial resources and to permit litigation to proceed.

¹ Waltermeyer does not have access to the docket for this case. Waltermeyer cites the caption and date of relevant orders and motions to which he does not know the docket entry number.

TRULINCS 18002047 - WALTERMEYER, BROCC T - Unit: COL-A-A

FROM: 18002047
TO:
SUBJECT: Sigs
DATE: 09/04/2022 11:35:52 AM

Respectfully submitted ^(*)by Brocc T. Waltermeyer on this 5th day of September, 2022:


Brocc T. Waltermeyer
Reg. No.: 18002-047
Federal Correctional Complex
Unit A-1 (Low Custody)
P.O. Box 1031
Coleman, FL 33521-1031

CERTIFICATE OF SERVICE

This motion was delivered to the prison mailing authorities on the same day as signed, and placed inside a postage-prepaid, properly addressed envelope. The original motion was delivered via United States First Class Mail to the United States District Court for the District of New Hampshire, Office of the Clerk at 55 Pleasant Street, Concord, New Hampshire, 03301. A copy of this motion was delivered via United States First Class Mail to Counsel for Defendants, at 53 Pleasant Street, Fourth Floor, Concord, New Hampshire, 03301.


Brocc T. Waltermeyer

VERIFICATION

Pursuant to 28 U.S.C. Sec. 1746, I declare that the factual allegations and factual statements contained in this motion are true and correct to the best of my knowledge.


Brocc T. Waltermeyer

/* Pursuant to Johnson V. Avery, 393 U.S. 483 (1969), I received assistance from a fellow inmate with the preparation and filing of this motion.

TRULINCS 18002047 - WALTERMEYER, BROCC T - Unit: COL-A-A

FROM: 18002047

TO:

SUBJECT: Attach

DATE: 09/04/2022 02:48:34 PM

Attachment "1"

FCC Coleman Low Handbook

FEDERAL CORRECTIONAL COMPLEX- LOW, COLEMAN, FLORIDA



**ADMISSION AND ORIENTATION
HANDBOOK**

P.O. Box 1024
Coleman, Florida 33521-1024

Last Updated:
April 2019

Federal Correctional Complex, Coleman, Florida

Post Office Box 1032 (staff only)

Coleman, Florida 33521

LOW

Telephone (352) 689-4000

FCC Coleman – Low Executive Staff

Kathy P. Lane, Warden

Stevie M. Knight,

Associate Warden

B. Graves, Deputy Captain

D. Grafton, Executive Assistant

FCC Coleman – LOW Department Heads/Supervisors

F. Blackmon-Conston - Deputy Case Management Coordinator

E. Ortiz - Complex Education Supervisor J.

Alba – Supervisory Chaplain

T. Collins - Facilities General Foreman

R. Diaz - Assistant Food Service Administrator

C. Donato - Assistant Health Services Administrator N.

Swartz - Chief Psychologist

C. Raines – Assistant Supervisor of Recreation

J. Ward – A Unit Manager

D. Gutierrez – B Unit Manager

R. Jimenez – C Unit Manager

Ay

Memorandum for all inmates from the Director of the Bureau of Prisons
Office of the Director Washington, DC 20534

April 01 2019

MEMORANDUM FOR ALL BUREAU INMATES

FROM: Hugh J. Horowitz, Acting Director

SUBJECT: Expectations

As Director of the Federal Bureau of Prisons, it is my responsibility to ensure the safety, security and good order of all 117 prisons, 38,000 staff, and 217,000 inmates. It is also my responsibility to provide you opportunities for selfimprovement. In this message, I will explain some of the ways I intend to carry out my duties and also explain my expectations for how you carry out your responsibilities. Over the past few weeks, I have reminded all staff of the BOP's core values: respect, integrity and correctional excellence. This means that everyone is to be treated with dignity and respect: staff, inmates, visitors, and members of the public. You are expected to demonstrate respect as well, to staff, to your fellow inmates and to the rules in place at the prison. You may want to reread the inmate rights and responsibilities information to be sure you are familiar with the expectations we have for you. Inmates who disrespect the rules by engaging in prohibited activities (especially the most serious prohibited acts including possession of intoxicants, weapons, or other contraband) pose a serious threat to the safety and security of the institution and will be subjected to disciplinary action. Participation in any type of gang activity will not be tolerated. In an attempt to ensure the environment is safe for all, inmates who participate in behavior which disrupts the orderly running of the institution may be considered for institutions with greater controls, such as higher security facilities or special management units. You are expected to behave responsibly and to live peacefully with other inmates, regardless of their background or culture.

Nearly all of you will release from prison one day and return to the community. We want you to be prepared to be a productive, law-abiding member of society. Accordingly, we will help you make the best possible use of your time in prison to learn skills, get treatment, build a resume, etc. Regardless of how many days, months, or years you may have time to serve, it is critical that you begin your preparation for reentry today! Ideally, preparation for reentry begins on the first day of incarceration. The Bureau of Prisons has developed tools to identify your needs and programs to address these needs, in the areas of education, work, recreation, health services, psychology, religious services, and more. The career resource centers at every institution can help you in many ways, and the full-time Mentor Coordinators can connect you with mentors while incarcerated who can continue to assist you after release. Staff can and will assist you to get on the path to a successful community reentry, but you must accept responsibility for your own future; you must work hard at the programs recommended for you and make every effort to prepare for release.

The staff of the BOP understands that incarceration can be a difficult experience and that some inmates are overwhelmed by feelings of hopelessness. If you or someone you know is feeling or talking about a sense of hopelessness or suicide, please bring this to the attention of a staff member as soon as possible; the staff are there to help you. Seeking help is a sign of your strength and determination to prevail. Helping yourself or a fellow inmate in a time of crisis is the right thing to do.

Memorandum for all Inmates (April 1, 2019)

U.S. Department of Justice
Federal Bureau of Prisons
Office of the Director Washington, DC 20534

April 01, 2019

MEMORANDUM FOR ALL BUREAU INMATES

FROM: Hugh J. Horowitz, Acting Director

SUBJECT: Suicide Prevention

As Director of the Federal Bureau of Prisons, I am committed to ensuring your safety, the safety of staff and the public. I am also committed to providing you with programs and services that can contribute to your ability to successfully reenter society. In this message, I would like to specifically address your state of mind, an important part of your overall well-being.

Incarceration is difficult for many people; many individuals experience a wide range of emotions - sadness, anxiety, fear, loneliness, anger, or shame. At times you may feel hopeless about your future and your thoughts may turn to suicide. If you are unable to think of solutions other than suicide, it is not because solutions do not exist; it is because you are currently unable to see them. Do not lose hope. Solutions can be found, feelings change, unanticipated positive events occur. Look for meaning and purpose in educational and treatment programs, faith, work, family, and friends.

Bureau staff are a key resource available to you. Every institution is staffed with psychologists who provide counseling and other supportive mental health services. Anytime you want to speak with a psychologist, let staff know and they will contact Psychology Services to make the necessary arrangements. Psychologists are not the only Bureau staff available to provide you support. Your unit officer, counselor or case manager, work supervisor, teacher, and treatment specialist are available to speak with you and provide assistance, as are the other staff in the institution, including recreation specialists and lieutenants. Help is available.

Every day, inmates across the Bureau find the strength and support to move ahead in a positive direction, despite their challenging circumstances. You may be reading this message while in a Special Housing Unit or Special Management Unit cell, thinking your life is moving in the wrong direction. But wherever you are, whatever your circumstances, my commitment to you is the same. I want you to succeed. I want your life to go forward in a positive direction - a direction personally fulfilling to you, but also a direction which ensures the safety of the staff and inmates who interact with you each day. I know your road ahead is not an easy one. Be willing to request help from those around you.

"Learn from yesterday, live for today, hope for tomorrow." ~Albert Einstein

INTRODUCTION

Case 1:19-cv-00233-LM

Document 28

Filed 09/15/22

Page 8 of 8

Broc T. Valtermeyer, #18012-047
Federal Correctional Complex

Unit A-1 (Low Custody)

P.O. Box 1031

Coleman, FL 33521-1031

United States District Court
Office of the Clerk
53 Pleasant Street
Concord, NM
03301

SAINT PETER
17 SEP 20



03301-390499

